DOCUMENT RESUME

ED 058 831 HE 002 757

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TITLE The Role of Government in the Attainment of Equal Opportunity for Women in Universities.
INSTITUTION American Association for the Advancement of Science, Washington, D.C.
PUB DATE Dec 71
NOTE 36p.; Paper presented at the 138th meeting of the American Association for the Advancement of Science

EDRS PRICE MF-$0.65 HC-$3.29
DESCRIPTORS *Civil Rights Legislation; *Equal Opportunities (Jobs); *Feminism; *Higher Education; Legislation; Women Professors; *Womens Education

ABSTRACT

Historically, institutions of higher learning have been regarded as the standard bearers of high moral, ethical, and democratic conduct. Now, however, it appears that colleges and universities are participating in a pattern of sex discrimination in both admissions and employment procedures. This discrimination has reached the point that federal intervention is a necessity. This paper cites general and specific cases of this type, and gives examples of active and pending legislation created for the attainment of equal opportunity for women in universities. (HS)

AMERICAN ASSOCIATION FOR THE

ADVANCEMENT OF SCIENCE, 138th MEETING

SUBJECT..... The Role of Government in the Attainment of Equal Opportunity for Women in Universities

REMARKS BY..... Ethel Bent Walsh, Commissioner

ADDRESS..... ..... Equal Employment Opportunity Commission
1800 G Street, N.W., Room 1249
Washington, D. C. 20506

DATE..... THURSDAY, DECEMBER 30, 1971

PLACE..... Sheraton Hotel
Philadelphia, Pennsylvania

PROGRAM..... AAAS Symposium

PREFACE

I would like to express appreciation to Ms. Elsa Glass and Ms. Sonia Fuentes of the Office of General Counsel, the Equal Employment Opportunity Commission, for their assistance in preparing this presentation.

Ethel Bent Walsh,
Commissioner
Equal Employment Opportunity
Commission

INTRODUCTION

Historically, institutions of higher learning have been regarded as the standard bearers of high moral, ethical, and democratic conduct.

Historically, members of their faculties have awakened the social conscience of continents and encouraged the assault against those who would stifle the mental, physical or emotional progress of mankind.

Historically, national, regional, and local governments have sought the intellectual assistance of faculty members in solving social problems.

Is it possible, then, that there can be sexual bias in academe, that bastion of tolerance and reasonableness? The answer is affirmative as evidenced by statistical data: the many statements made at the Hearings on Section 805 of H. R. 10698 before the Special Subcommittee on Education of the House Committee on Education and Labor, 91st Congress, 2nd Session (1970); the filing of charges of sex discrimination against 350 colleges and universities by the Women's Equity Action League (WEAL) and the National Organization for Women (NOW); recent court decisions; as well as current and pending legislation.

I. Discrimination in Admissions

There exists in our colleges and universities today what Dr. Bernice Sandler has described as "a massive, consistent and vicious pattern of sex discrimination." 1/ This pattern is accomplished by (1) admission quotas in undergraduate and graduate schools; (2) higher admission standards for women than for men; (3) and discrimination in financial assistance for graduate study (scholarships, fellowships, research grants, teaching assistantships, etc.).

A. In Undergraduate Schools

Dr. Peter Muirhead, Associate Commissioner of Education, Office of Education, Department of Health, Education and Welfare, showed that at Cornell University, there were quotas on women applicants at all the schools in the institution. 2/ For example:

1/ Statement at Hearings on Section 805 of H. R. 10698 before the Special Subcommittee on Education of the House Committee on Education and Labor, 91st Congress 2nd Session (1970) (hereinafter referred to as 1970 Hearings) p. 298. Dr. Sandler was then Chairman, Action Committee on Federal Contract Compliance in Education, WEAL.

2/ Statement by Muirhead, in 1970 Hearings 643

> ...in the State School of Agriculture quotas exist such that the Mean SAT (Standard Achievement Test) scores of entering women freshmen are higher than those of men by 30-40 points. 3/

Dr. Muirhead further stated that restrictive admission policies were applicable at public universities as well as private institutions:

> We know that many colleges admit fixed percentages of men and women each year, resulting in a freshman class with fewer women meeting higher standards than it would contain if women were admitted on the same basis as men. At Cornell University for example, the ratio of men to women remains 3 to 1 from year to year; at Harvard-Radcliffe, it is 4 to 1. The University of North Carolina at Chapel Hill's Fall 1969 "Profile of the Freshman Class" states, admission of women on the freshman level will be restricted to those who are especially well qualified. They admitted 3,231 men, or half of the male applicants, and 747 women, about one-fourth of the female applicants. Chapel Hill is a state-supported institution. 4/

Another state-supported school, the University of Virginia at Charlottesville, had a "male only" admission policy. Several women plaintiffs sued in the U.S. District Court

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3/ Letter from Sheila Tobias, former Assistant to the Vice-president for Academic Affairs at Cornell University, to Hon. Edith Green, July 12, 1970, reprinted in 1970 Hearing 1077.

4/ Statement of Peter Muirhead, in 1970 Hearings 643.

alleging that they had been denied their constitutional rights of equal protection of the law as guaranteed by the 14th Amendment. 5/ The Federal Court held that the exclusion of women applicants from the all-male campus of the University of Virginia was a denial of equal protection where the facitities available to women were not equal.

5/ Kirstein v. Rectors and Visitors of the University, 309 F. Supp. 184 (E.D.Va., 1970).

B. Higher Admission Standards in Graduate and Professional Schools

A more consistent use of discriminatory quotas in graduate schools is revealed by Dr. Ann Sutherland Harris of Columbia University, who stated it was easier for a man than a woman to get into graduate school:

> The most conclusive evidence in the grade point average of the women which is significantly higher than the men. 9.1% of the women reported straight A averages compared with 6.8% of the men; 24.9% of the women reported A- averages compared to 20.1% of the men; and 32.2% of the women had B+ averages compared with 31.6% of the men. Only 30% of the women but 41% of the men had a grade average of B or lower. 6/

In the professional schools, the discrimination in admissions becomes more acute. Dr. Frances S. Norris, M.D., testified that while women applicants to medical schools have increased over 300% since 1930, the proportion of women accepted has fallen. From 1930 to 1969, women's share of the total number of admissions rose from 4.5% to 9.7% but the percentage of women applicants accepted

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6/ Statement of Dr. Ann Sutherland Harris, Assistant Professor of Art History, Columbia University, 1970 Hearings 242.

over this same period decreased from 65.5% to 46.5%. 7/

Dr. Norris reiterated that the low percentage of women accepted to medical schools results from admitted prejudice of the admissions committees:

> Interviews with admission officers at 25 Northeastern Medical Schools revealed that 19 admitted they accepted men in preference to women unless the women were demonstrably superior. 8/

Similarly, law schools have unwritten quota systems for female applicants. Female applicants are scrutinized for ability and motivation and even their marital status is questioned before granting admission because, as one admissions officer stated:

> a female student might not graduate and continue to practice. 9/

It would follow that a male applicant is often chosen over an equally qualified female.

7/ Norris Statement at 1970 Hearings 570-579.

8/ Id. at 526, 574.

9/ Dinerman, Sex Discrimination in the Legal Profession, 55 A.B.A.J. 951 (1969).

C. Financial Assistance in Research and Graduate Study Programs

Strong-voiced complaints have been lodged against the financial assistance policies of universities which are centered in the research and graduate study programs. In 1969, women represented 33% of the graduate student population; they received 28% of the awards given under NEDA Title IV fellowship programs for graduate students and 29.3% of the graduate acedemic awards under NDEA Title VI. Direct evidence of discrimination in the award of scholarships and fellowships was presented against New York University and Cornell:

> N.Y.U. has totally excluded women for more than 20 years from the prestigious and lucrative Root-Tilden and Snow Scholarships. Twenty Root-Tilden Scholarships worth more than $10,000 each were awarded to male future public leaders each year. Women, of course, can't be leaders and N.Y.U. contributed its share to making that presumption a reality by its exclusionary policy. 10/

A similar charge against Cornell University stated that the Cornell catalogue lists scholarships and prizes open to arts and science undergraduates totaling $5,045

10/ Statements of Mrs. Diane Blank and Mrs. Susan Deller Ross, in 1970 Hearings 584, 588.

annually to be distributed on the basis of sex. Women are eligible to receive only 15% or $760.00 of this amount compared with $4,285.00 for men. 11/ Undergraduate and graduate programs in universities are analogous to the training and apprenticeship programs of industry, Congresswoman Martha Griffiths (D-Mich.) has pointed out. 12/ The relationship between training and employment is an integral one. Accordingly, discrimination in the admission of women to undergraduate and graduate schools, and sex discrimination in the grant of scholarships, seriously detracts from the ability of women to compete in the labor market.

11/ Kusnetz and Frances, The Status of Women at Cornell, 1969, in 1970 Hearings 1078, 1080.

12/ 116 Cong. Rec., H. 1588 (daily ed. Mar. 9, 1970).

II. Discrimination in Employment

A. Statistical Data on Teachers and Admisinistrative Personnel

Discrimination in the employment of women as teachers and administrative personnel begins with elementary school and becomes geometrically worse through the college and professional school levels. 13/

While 67.6% of the elementary and secondary school teachers are women, only 22% of the elementary school principals and only 4% of the secondary school principals are women. Furthermore, of the 13,000 school superintendents, only 2 are women.

13/ Rossi, The Utilization of Women Faculty in Colleges and Universities. Address at 37th Conference of Academic Deans of Colleges and Universities of the Southern States, Atlanta, Georgia, December 3, 1968.

The higher the rank, the fewer the women. For example, the last time a woman was hired as a professor in the Department of Psychology at the University of California in Berkeley was in 1924. 14/ Yet, women received 23% of the doctorates in psychology at this University. At Columbia University, there is no woman on the faculty of the Department of Psychology although 36% of the doctorates in that field are awarded to women. 15/ At the University of Chicago, the percentage of women faculty members is less now than it was in 1899.

A 1966 survey conducted by the National Education Association (NEA) found that in a nationwide study of degree-granting institution, including junior colleges, women represented 18.4% of the full-time faculty. 16/ Of this 18.4%, 32.5% were instructors; 19.4% were assistant professors; 15.1% were associate professors; and 8% were

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14/ Murray, Economic and Educational Inequality Based on Sex: An Overview, 5 Val. U.L. Rev. 261 (1971).

15/ Sandler, 1970 Hearings 299.

16/ Muirhead statement in 1970 Hearings 644.

full professors. An even darker picture emerges from the realization that women comprise less than 10% of the total faculty in the prestigious private institutions and large state universities. A report on the distribution of women faculty members at 10 high endownment institutions in 1960 showed women ranged from 9.8% of the instructors to 2.6% of the full professors. 17/ In a survey of 10 high enrollment institutions, women faculty members comprised 20.4% of the instructors; 12.7% of the assistant professors; 10.1% of the associate professors; and 4.3% of the full professors. 18/

Dr. Alice Rossi conducted a study in 188 graduate departments in sociology in 1968-69. Women were 30% of the PhD candidates, 27% of the full-time instructors, 14% of the full-time assistant professors, 9% of the full-time associate professors, 4% of the full-time professors, 1% of the chairmen of graduate sociology departments

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17/ Harris statement, supra note 7. The 10 high endowment colleges were: Chicago, Columbia, Cornell, Harvard John Hopkins, M.I.T., Northwestern, Princeton, Stanford and Yale. Eight institutions reported.

18/ The 10 high enrollment institutions were: Berkeley, C.C.N.Y., Indiana, Illinois, Michigan, Michigan State, Minnesota, N.Y.U., Ohio State and Pennsylvania State.

and 0% of the 44 full professors in the five elite institutions: Berkeley, Chicago, Columbia, Harvard and Michigan. 19/

In 1968-69, when women constituted 22% of the graduate students and were awarded 19% of the PhD's at the Harvard University Graduate School of Arts and Sciences, there was not one woman among the more than 400 tenured professors in that graduate school. 20/ Dr. Lawrence A. Simpson discovered in his study of hiring agents, i.e., deans, departmental chairmen and faculty, that where men and women were equally qualified, hiring officials favored the selection of males for faculty appointments, even in all-female institutions. As a result, prospective academic women must recognize that they must be more highly qualified than their male counterparts for positions in higher education. 21/

19/ Rossi, Status of Women in Graduate Departments of Sociology 1968-69, 5 American Sociologist, Feb. 1970, reprinted in 1970 Hearings 1242.

20/ Sandler Statement, in 1970 Hearings 299.

21/ Simpson, A Myth is Better than a Miss, Men Get the Edge in Academic Employment, College and University Business (Feb. 1970).

B. Anti-Nepotism and Inbred-Hiring Rules

The effect of rules against nepotism, which bar two members of a family from teaching at the same university, falls predominately on academic women married to academic men. A report at the University of California at Berkeley included a survey of 23 women with PhD's who were married to men teaching at the University. The survey found that while these women were qualified for full-time work, they held temporary or part-time positions and their talents, accordingly, were not fully utilized. 22/

Dr. Ann Scott of the University of Buffalo has stated that the "no-inbred-hiring" rule, whereby a department or university refuses to hire any person who holds a degree from that university, prevents women who marry faculty men and work for a degree at their husband's university, from securing a position at that university after graduation. 23/

22/ Report of the Subcommittee on the Status of Academic Women on the Berkeley Campus, May 19, 1970, reprinted in 1970 Hearings 1143.

23/ Scott statement in 1970 Hearings 494.

C. Tenure

Dr. Scott further contends that the tenure system is "one of the most powerful and unexamined areas of discrimination against women in the university world." She suggest that the university:

> in the matter of tenure it can effect some reforms to bleed the system of sexist bias. It can adopt a broader base of tenure criteria to include emphasis upon teaching, service to the University and the community and the necessity of women as visible life models. Because tenure means promotion, and because the patterns clearly show that as presently practiced it discriminates against women as a selection system, the whole tenure procedure should be subjected to a validation study on this basis alone. 24/

Secret proceedings in which a candidate's future career is decided ex parte could tend to discriminate against women.

24/ Id. 226.

D. Maternity Leave Policies

Blanket mandatory maternity leave provisions also cause teachers at all levels to lose their tenure and seniority rights. Maternity leave policies in educational institutions requiring teachers to leave after the 4th or 5th month of pregnancy have been attacked in the courts as violation of the Fifth and Fourteenth Amendments. 25/ There have only been two court decisions in this area to date, and they reached contradictory conclusions. The La Fleur v. Cleveland Board of Education, pending on appeal, held that the maternity leave policy of the Board of Education was not a denial of equal protection of the law under the 14th Amendment. 26/ However, the Court in Cohen v. Chesterfield County School Board, a Virginia case, pending on appeal, ordered the restoration of tenure to an

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25/ La Fleur v. Cleveland Board of Education, 326 F. Supp. 1159 (E.D. Va., 1971), appeal, pending No. 71-1707 (4th Cir.), Cohen v. Chesterfield County School Board, 236 F. Supp. 1159 (E.D. Va., 1971) appeal pending No. 71-1707 (4th Cir.), Ford v. Brown, (N.D. Ala., 1971).

26/ Id.

elementary school teacher who was subject to a similar maternity leave policy. 27/ There, the Court held that the policy of the Board of Education did deny females equal protection of the laws. A complaint has recently been filed in Alabama by five black teachers who were dismissed or forced to resign, losing their tenure rights, because of the maternity policy of the Phenix City Board of Education. 28/

In the case of Hill v. Chartiers Valley Joint School District, Mrs. Hill, an elementary school teacher in Thornburg, Pennsylvania, was dismissed by her school board after she gave birth to a child while on sabbatical

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27/ Cohen, supra, Note 25.

28/ Ford v. Brown, supra, Note 25.

leave. She brought suit on the ground that her dismissal had not been in accordance with the procedural requirements set forth in the School Code, Act of 1911, and won reinstatement to her job with back pay. 29/

29/ Chartiers Valley Joint School Board v. Hill, Case No. 3051 (Sup. Ct. of Pa., 1968).

III. Constitutional Remedies

In view of the fact that teachers in colleges and universities, as well as schools in general, are currently exempt from Federal legislation and regulation, except for the Executive Order, they have frequently resorted to the Constitution for relief, 30/ as is evidenced by the cases discussed supra attacking the maternity leave policies of school systems. Such relief is, however, available only where the school involved is an instrumentality of the municipal, state, or local government.

In addition to the cases attacking maternity leave policies, there have been several lawsuits alleging that sex discrimination in the educational sphere constituted a violation of Constitutional rights. In Kirstein v. Rector and Visitors of University of Virginia, 31/ the Federal Court held that the exclusion of the women plaintiffs from the University of Virginia at Charlottesville "denied their constitutional right to an education equal with that offered men at Charlottesville and that such discrimination on the basis of

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30/ Relief would be sought under the 5th and 14th Amendments to the Constitution and under 42 U.S.C. Secs. 1981 and 1983.

31/ 309 F. Supp. 184 (E.D. Va. 1970).

sex violates the Equal Protection Clause of the Fourteenth Amendment."

The court, however, went on to add:

> We are urged to go further and hold that Virginia may not operate any educational institution separated according to the sexes. We decline to do so. 32/

In 1969, suit was filed in New York City in the case of de Rivera v. Fliedner, The Board of Education of the City of New York and Bernard E. Donovan. 33/ Miss de Rivera, a 13-year old Brooklyn girl who had scored in the 99th percentile in a city-wide math exam, attacked the refusal of all-boys Stuyvesant High School, widely recognized as having one of the best mathematics and science departments of any secondary school in the nation, to admit her because of sex. On May 1, 1969, the School Board reversed itself and decided to admit Miss de Rivera.

32/ Id. at 187.

33/ Rivera v. Fliedner, The Board of Education of the City of New York and Bernard E. Donovan (Sup. Ct., N.Y.S. 1969).

On March 8, 1971, the Supreme Court in Williams v. McNair, in a memorandum opinion, affirmed a lower court ruling that the State of South Carolina may exclude men from its all-women Winthrop College. 34/

In two decisions of May 1969, in cases involving plans to effect non-racial public school systems, the courts adopted plans whereby the students in elementary and high schools were to be segregated on the basis of sex. Banks v. St. James Parish School Board, and U.S. v. Carroll County Board of Education. 35/

In Perry v. Grenada Municipal Separate School District, 36/ an action brought under 28 U.S.C. sec. 1343 and 42 U.S.C.

34/ Williams v. McNair, 316 F. Supp. 134 (D.S.C. 1970), aff'd Mem. 91 S. Ct. 976 (1971).

35/ Banks v. St. James Parish School Board (E.D. La.) 1969., U. S. v. Carroll County Board of Education (N.D. Miss.) (1970).

36/ 300 Fed. Supp. 748 (N.D. Miss., 1969).

1983, the District Court held that unwed mothers could not be excluded as students from high schools of the district solely because they were unwed mothers; rather, they were entitled to readmission unless on a fair hearing before the school authorities they were found to be so lacking in moral character that their presence in the schools would taint the education of the other students.

Impetus to the success of such actions was given by the Supreme Court's decision in Reed v. Reed 37/ on November 22, 1971. Reed was the first recent Supreme Court decision invalidating a state law under the Equal Protection Clause of the Constitution on the grounds that it discriminated on the basis of sex. 38/

37/ 400 U.S. 816, 91 S. Ct. 60; 401 U.S. 934, 91 S. Ct. 917, 40 LW 4013 (1971). Reed involved an Idaho law, which has been repealed prior to the Supreme Court's decision, which provided that in the administration of estates, if several persons are claiming and are equally entitled to administer, males must be preferred to females.

38/ While Reed is the first recent Supreme Court

While the decision was narrowly limited to the facts of the case, and the Court indicated that it would follow a case-by-case approach in deciding future questions in this area, the decision represents a significant step forward and a powerful tool if utilized by teachers. If the Equal Rights Amendment were passed, of course, it would obviate the need for using this case-by-case approach, and prohibit sex discrimination in admissions, employment of teachers, and in all actions by public schools and state colleges and universities.

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decision invalidating a state law which discriminates on the basis of sex, there have been a number of recent lower Federal court decisions that the Constitution invalidates state laws which discriminate against women, such as those which restrict their right to serve on the jury; restrict the occupations women may hold, the hours they may work, and the weight they may lift; and those which require longer prison sentences for women. White v. Crook, 251 F. Supp. 401 (M.D. Ala., 1966) (Alabama statute barring women from jury duty unconstitutional); United States ex rel. Robinson v. York, 281 F. Supp. 8 (D. Conn., 1968) (longer prison terms for women than for men convicted of the same crimes unconstitutional); Mengelkoch v. Industrial Welfare Commission, 437 F. 2d 563 (9th Cir., 1971) (California's maximum hours law for women not an insubstantial Constitutional issue).

IV. Federal Laws and the Executive Order

Although there are two Federal laws which prohibit discrimination in employment, the Equal Pay Act and Title VII of the Civil Rights Act of 1964, both currently contain exemptions which exclude faculty women and administrative personnel from their protections. Accordingly, the only Federal remedy currently available to such women is Executive Order 11246.

A. The Equal Pay Act

The Equal Pay Act, amendment to the Fair Labor Standards Act, administered by the Department of Labor, prohibits sex discrimination in wages and salaries. However, it excludes administrative, professional and executive employees.

B. Title VII of the Civil Rights Act of 1964

Title VII is the only Title of the Civil Rights Act of 1964 which prohibits sex discrimination. 39/ It prohibits discrimination in employment based on race, color,

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39/ The other Titles are:

Title II	-	Discrimination in Places of Public Accommodation
Title III	-	Desegregation of Public Facilities Owned or Operated by the States
Title IV	-	Desegregation of Public Education
Title V	-	Commission on Civil Rights

religion, sex and national origin. Faculty women are not, however, protected by the Act because of exclusions contained in two of its Sections. Section 701 excludes instrumentalities of the municipal, state and Federal Governments. Section 702 excludes the employment of individuals by educational institutions, who perform work connected with the educational activities of the institutions. Thus, teachers and administrative personnel in both public and private schools are excluded, the basis premise of Title VII that women, like men, are to be treated on the basis of individual ability is inapplicable to a large segment of the employment sector which has characteristically been identified as "female work."

Title VI - Nondiscrimination in Federally-Assisted Programs
Title VII - Registration and Voting Statistics
Title IX - Intervention and Procedure after Removal in Civil Rights Cases
Title X - Community Relations Service
(Emphasis supplied to those of particular relevance to the educational sphere).

While bills were introduced to amend some of these Titles so as to include sex discrimination, both before and after the passage of Title VII, none has to date been passed.

C. Executive Order 11246

Executive Order 11246, as amended by 11375, effective October 1968, prohibits discrimination based on race, color, religion, sex, and national origin by contractors and subcontractors of the Federal Government (with contracts of $10,000 or more) and on federally-assisted construction contracts. The Order is administered by the Office of Federal Contract Compliance (the OFCC) in the Department of Labor. In 1970, the OFCC issued Guidelines on Sex Discrimination. 40/ Government contractors are required to develop and implement written affirmative action programs to eliminate sex discrimination or they may face the termination or cancellation of existing contracts or debarment from future contracts.

Because of the Executive Order is the only avenue open for teachers, outside of constitutional actions, women's groups have focused on the OFCC in bringing charges of such discrimination. The Women's Equity Action League (WEAL) and the

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40/ 35 Fed. Reg. 8888 (1970).

National Organization for Women (NOW) have since 1970 filed such charges against 350 colleges and universities throughout the United States. The investigation of these charges and the negotiation of affirmative action programs to eliminate the discrimination alleged has been in the hands of the Department of Health, Education and Welfare (HEW), the compliance agency for universities and colleges. These women's groups have taken the position that the Executive Order governs not only employment in educational institutions but also admissions to such institutions on the ground that college and graduate education is analogous to the training and apprenticeship programs which are covered by the Executive Order. The OFCC has not yet indicated its agreement with this view.

On February 5, 1970, the OFCC issued Order No. 4, setting forth certain standards for the employment of minorities by non-construction government contractors. 41/ These standards required that the contractor develop specific goals and timetables for the employment of minority groups based on a review of a number of factors, such as the availability of minorities in the labor force and area

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41/ 41 CFR Part 60-2.

involved. Order No. 4 was recently amended to require the establishment of similar goals and timetables for the employment of women.

In addition to the affirmative action program of Order No. 4, guidelines to eliminate sex discrimination in education have been proposed by HEW and by the American Association of University Women. Recognition of discrimination in faculty employment is evidenced by the resolution passed by the American Association of University Professors' at their annual conference in July 1971. 42/

42/ Report on Committee W. 1970-71, AAUP Bulletin (summer, 1971). The resolution states that AAUP develop procedures as quickly as possible, including censure, against colleges and universities practicing discrimination including discrimination on the basis of age, sex, race, color, religion, national origin or marital status.

Since HEW has a mandate from Congress to conduct studies HEW found in studying the student loan program there were areas of sex discrimination. Therefore, last year, HEW issued guidelines prohibiting guarantee agencies and state direct loan agencies who are federally underwritten from insuring loans to private lending companies who take into account the sex of the student borrower. The regulation orders lenders to make federally insured loans available without regard to race, sex, color, or national origin. 43/

43/ 45 CFR 177.7.

V. Pending Legislation

The Hearings on Section 805 of H. R. 16098 Before the Special Subcommittee on Education of the House Committee on Education and Labor in 1970 were the precursor of the hearings that Representative Green had in the summer of 1971. Section 805 of H. R. 16098 proposed to: amend the Civil Rights Act of 1964 to include "sex" in Title IV, prohibiting discrimination in federally-assisted programs; extend the provisions of Title VII to educational institutions; extend the jurisdiction of the U. S. Civil Rights Commission to include "sex;" and apply the equal pay provisions of the Fair Labor Standards Act to "executive, administrative or professional employees, including those employed as academic personnel or teachers in elementary or secondary schools." 44/

44/ Address by Alice S. Rossi, Bernard College Conference on Women, April 17, 1970

This bill was not acted upon by the 91st Congress. Similar provisions are contained in the Mikva Bill (H. R. 916) and in the Green Bill (H. R. 7248). Furthermore, parts of Section 805 have been included in almost every bill dealing with education in the current 92nd Congress. Hearings on the Mikva Bill were held before the Special Subcommittee on the Judiciary in March and April, 1971. On April 29, Special Subcommittee No. 4 temporarily postponed consideration of the bill.

The Dent Bill (H. R. 8130) would extend coverage of the Equal Pay Act to federal and state employees. It would, furthermore, apply the sex discrimination in employment prohibitions of Section 6(d) of the Fair Labor Standards Act to any employee in an executive, administrative or professional capacity.

H. R. 1746, as passed by the House, would amend Title VII of the Civil Rights Act but does not cover teachers or state institutions.

The Administration Bill (H. R. 5191), which would extend the Higher Education Act of 1965, 45/ provides:

> No person in the United States shall on the ground of sex, be discriminated against by a recipient of federal financial assistance for any education program or activity. The preceding sentence shall not, however, preclude differential treatment based upon sex where sex is a bona fide ground for such differential treatment. 46/

It does not extend coverage of Title VII to educational institutions but provides for the administration of the equal employment opportunity provision by federal contract granting agencies.

The Green Bill (H. R. 7248) prohibits sex discrimination in all federally-assisted institutions of learning. This bill amends Section 701(b) and Section 702 of Title VII of the Civil Rights Act to include teachers in public and private institutions; amends the Civil Rights Act of 1957 to extend jurisdiction of the U. S. Commission on Civil Rights to sex discrimination; and amends the Fair Labor Standards Act to apply the equal pay provision to executive, administrative and professional employees.

45/ 42 U.S. 2751 et. seq. (Supp. IV, 1968).

46/ Ibid. Sec. 1001(a).

The Williams Bill (S. 1861) extends the Equal Pay Act to include executive and administrative employees.

The Williams Bill (S. 2515), cited as the "Equal Employment Enforcement Act of 1971," amends Title VII of the Civil Rights Act of 1964 by including teachers and educational institutions previously exempted. An amendment to Title VII of the Act authorizes the Attorney General to bring suit on behalf of teachers subjected to sex discrimination in the public schools on the state and local levels after a charge has been filed and EEOC has found reasonable cause to believe discrimination has occurred.

It has yet been passed in the Senate. If passed, the Amendment would prohibit sex discrimination by educational institutions which are governmental instrumentalities.

The Administration Bill (S. 1123) would prohibit sex discrimination by lenders and lending institutions relating to educational loans.

The Inclusive Bill (H. R. 3158) provides for scholarships to all students for the first two years of college.

The Comprehensive Health Manpower Training Act of 1971, recently signed by the President, prohibits the Department of Health, Education and Welfare from granting any funds or subsidy to any medical school which has been accused of quota systems, double standards for entrance, or plans which creates discrimination against women. The institutions included would be schools of medicine, dentistry, optometry, podiatry, veterinary medicine, and public health and its related fields.

The Equal Rights Amendment 47/ as adopted by the House states:

> Equality of rights under the law shall not be denied or abridge by the United States or any state on account of sex. Congress and the several states shall have power, within their respective jurisdictions, to enforce this article by appropriate legislation.

47/ Equal Rights Amendment, H. J. Res. 208 (1971).

CONCLUSION

There is no doubt that the Congress of the United States and the Executive Branch of our Government are determined to adopt and enforce measures that will effectively end discrimination in the public sector, the private sector and the educational sector.

Let us not dwell on past failures and sins of omission that have made this role of government necessary. We are all well aware of the extraordinary social, political, economic and cultural change that has characterized the past several years. Essentially, it is a revolution in values which has resulted in a reexamination of the value system upon which our Country was founded and with which it prospered mightily; -- but a value system which unfortunately, perpetuates inequities in the opportunities open to some in our society. Let us rather concentrate our efforts on anticipating areas of social concern and developing and inaugurating effective programs to meet these needs.

Only by so doing can academe preserve a larger measure of its traditional independence, while at the same time responding to the clear demands of the American people. The academic community can no longer afford to neglect any of those who are a part of it, for the integrity of the whole depends upon the strength of its parts.